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December 20, 2011

VIA ECF

Honorable Kiyo A. Matsumoto
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. Scott Fappiano, Case No. 11-CR-30 (KAM)

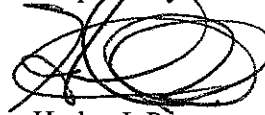
Dear Judge Matsumoto:

We represent Scott Fappiano in the referenced matter, and write in anticipation of his January 20, 2012 sentencing hearing as well as the filing of his sentencing submission on December 22, 2011. In particular and as this Court knows, Mr. Fappiano is one of the "exonerated" -- that is, in 2006 he was released from prison in New York after having served more than 21 years in jail for a crime that the Innocence Project established through DNA testing that he did not commit. As part of our sentencing submission, we intend to provide the Court with a comprehensive psychological evaluation that reports on (among other things) the effect on Mr. Fappiano of that false conviction and wrongful imprisonment. That evaluation includes personal and private information concerning Mr. Fappiano's background and psychological makeup that we respectfully submit should be handled with discretion and kept confidential so as to protect and preserve Mr. Fappiano's privacy (just as the PSR is confidential).

Accordingly, we write to respectfully request permission to file the aforementioned psychological evaluation with this Court only (as well as with the government and the Probation Department). I have consulted with Assistant United States Attorney Elizabeth Geddes, who advised me that the government has no objection to this application.

Thank you for your consideration and attention to this matter.

Respectfully submitted,



Harlan J. Protass

cc: Elizabeth Geddes, Esq. (via ECF)
Allon Lifshitz, Esq. (via ECF)
Assistant United States Attorneys